IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

Crl.MC.No. 1751 of 2005()

C.C.NO.7/2000 of JUDICIAL MAGISTRATE OF THE FIRST CLASS, KATTAKADA)

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PETITIONER:

S. GOPALAKRISHNAN NAIR,
ARSHIK HERBAL REMEDIES (INDIA), TANK ROAD,
VANCHIYOOR P.O., TRIVANDRUM-35.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.K.VINODKUMAR
SRI.P.K.MANOJKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. JEEVI ALIAS JAYARAJAN, S/O. JOSBAN,
THEKKEKARAPUTHENVEEDU,URIYACODU,PERIMKULAM VILLAGE
NOW IN CONFINEMENT IN THE CENTRAL JAIL,
POOJAPPURA, TRIVANDRUM.

R1 BY PUBLIC PROSECUTOR SRI GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.1751 OF 2005

DATED THIS THE 20TH DAY OF NOVEMBER 2006

ORDER

The petitioner, who is the de facto complainant in C.C.No.7/2000 in the file of the Judicial First Class Magistrate Court, Kattakkada ,has sought for getting quashed the order of the Chief Judicial Magistrate, Thiruvananthapuram dated 2-5-2005 withdrawing the case from the lower court and making over the same to the Judicial First Class Magistrate Court-I, Nedumangad for trial and disposal. According to the petitioner, he has been considerably prejudiced by the above action of the Chief Judicial Magistrate . It is submitted that the trial was almost over when the second respondent/accused submitted a complaint before the Sessions Judge and the Sessions Judge forwarded the same to the Chief Judicial Magistrate. Annexure-B is the copy of the complaint wherein he has made certain allegations against the Magistrate before whom the case is being tried. It is pointed out that the Magistrate had rejected his bail application considering his antecedents and history. The prosecution allegation in the particular case is that on 8-3-1999 at about 10 p.m. the first accused along with other accused persons trespassed into the property of the petitioner

and broke open the chest of the private temple situated in front of the house of the petitioner and has committed theft of the gold ornaments worth Rs.6,76,000/-. The offences alleged are under Sections 457, 380 and 201 read with Section 34 of the Indian Penal Code.

2. I find that the order was issued vide Section 410 Cr.P.C. Under Section 412 Cr.P.C., the reason should be recorded. But the Chief Judicial Magistrate as per Annexure-C order has not mentioned any reasons. In the circumstances, I find that Annexure-C order of the Chief Judicial Magistrate withdrawing C.C.No.7/2000 from the Judicial First Class Magistrate Court, Kattakkada and making over the same to Judicial First Class Magistrate-I, Nedumangad is liable to be quashed and I do so.

The Judicial First Class Magistrate, Kattakkada is herewith directed to complete the trial and dispose of the matter at the earliest, at any rate within four months from the date of receipt of a copy of this order. The Crl.M.C.is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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